

AMENDED IN ASSEMBLY JULY 14, 2003

AMENDED IN SENATE MAY 7, 2003

AMENDED IN SENATE APRIL 21, 2003

SENATE BILL

No. 248

Introduced by Senator Murray
(Coauthor: Senator Florez)
(Coauthor: Assembly Member Firebaugh)

February 14, 2003

An act to amend Sections 415, 426, 3001, 3003, 3051, and ~~3062 of 3066 of~~, to add Sections 3050.8 and 3069.1 to, and to add Article 5 (commencing with Section 3070) to Chapter 6 of Division 2 of, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 248, as amended, Murray. Vehicles: New Motor Vehicle Board: recreational vehicles.

(1) Existing law defines a "new motor vehicle dealer" as a dealer who, among other matters, acquires for resale new and unregistered motor vehicles from manufacturers or distributors of those vehicles. Existing law establishes a New Motor Vehicle Board that regulates the activities or practices of a new motor vehicle dealer, manufacturer, manufacturer branch, distributor, distributor branch, or representative, as specified.

This bill would include a recreational vehicle, as defined, as a motor vehicle for the purposes of this definition and for the purposes of the operation of the board *and related statutes*, except for truck campers and park trailers. *The bill would establish separate provisions*

regulating the terms and enforcement of recreational vehicle franchise agreements.

The bill would require the board to recommend to a member of the public that he or she consult with the Department of Consumer Affairs regarding certain complaints, and would specify that a person's right to maintain an action regarding a transaction involving a recreational vehicle under any other provision of law is not affected by the provisions of this bill.

(2) Existing law requires 4 of the appointive members of the board to be new motor vehicle dealers, as defined.

This bill would exclude dealers who deal exclusively in recreational vehicles, as defined, from those membership provisions of the board.

~~(3) Under existing law, if a franchisor seeks to enter into a franchise establishing an additional motor vehicle dealership within a relevant market area where the same line make is then represented, or seeks to relocate an existing motor vehicle dealership, the franchisor is required to undertake a specified procedure involving the New Motor Vehicle Board before establishing or relocating the franchise.~~

~~This bill would provide that the existing procedure restrictions do not apply to an annual show sponsored by a national trade association of recreational vehicle manufacturers that complies with certain requirements.~~

~~The bill would define the term "line make" for purposes of the sale of new recreational vehicles.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 415 of the Vehicle Code is amended to
2 read:

3 415. (a) A "motor vehicle" is a vehicle that is self-propelled.

4 (b) "Motor vehicle" does not include a self-propelled
5 wheelchair, invalid tricycle, or motorized quadricycle, if operated
6 by a person who, by reason of physical disability, is otherwise
7 unable to move about as a pedestrian.

8 (c) For purposes of Chapter 6 (commencing with Section 3000)
9 of Division 2, "motor vehicle" includes a recreational vehicle as
10 that term is defined in subdivision (a) of Section 18010 of the
11 Health and Safety Code, but does not include a truck camper.



1 SEC. 2. Section 426 of the Vehicle Code is amended to read:
2 426. “New motor vehicle dealer” is a dealer, as defined in
3 Section 285, who, in addition to the requirements of that section,
4 either acquires for resale new and unregistered motor vehicles
5 from manufacturers or distributors of those motor vehicles or
6 acquires for resale new and unregistered off-highway motorcycles
7 from manufacturers or distributors of the vehicles. No distinction
8 shall be made, nor any different construction be given to the
9 definition of “new motor vehicle dealer” and “dealer” except for
10 the application of the provisions of Chapter 6 (commencing with
11 Section 3000) of Division 2 and Section 11704.5. Sections 3001
12 and 3003 do not, however, apply to a dealer who deals exclusively
13 in motorcycles or recreational vehicles, as defined in subdivision
14 (a) of Section 18010 of the Health and Safety Code.

15 SEC. 3. Section 3001 of the Vehicle Code is amended to read:
16 3001. (a) Four of the appointive members of the board shall
17 be new motor vehicle dealers as defined in Section 426 who have
18 engaged for a period of not less than five years preceding their
19 appointment in activities regulated by Article 1 (commencing with
20 Section 11700) of Chapter 4 of Division 5. These members shall
21 be appointed by the Governor.

22 (b) Each of the five remaining appointive members shall be a
23 public member who is not a licentiate under Article 1
24 (commencing with Section 11700) or 2 (commencing with Section
25 11800) of Chapter 4 of Division 5 or an employee of such licentiate
26 at the time of appointment and one of these five appointive
27 members shall have been admitted to practice law in the state for
28 at least 10 years immediately preceding his or her appointment.
29 One public member shall be appointed by the Senate Committee
30 on Rules, one by the Speaker of the Assembly, and three by the
31 Governor.

32 (c) Each member shall be of good moral character.

33 (d) This section does not apply to a dealer who deals
34 exclusively in motorcycles or recreational vehicles, as defined in
35 subdivision (a) of Section 18010 of the Health and Safety Code.

36 SEC. 4. Section 3003 of the Vehicle Code is amended to read:
37 3003. (a) Each appointive member of the board shall be
38 appointed for a term of four years and shall hold office until the
39 appointment and qualification of his or her successor or until one

1 year has elapsed since the expiration of the time for which he or
2 she was appointed, whichever occurs first.

3 (b) The terms of the members of the board first appointed shall
4 expire as follows: one public member and one new motor vehicle
5 dealer member, January 15, 1969; two public members and one
6 new motor vehicle dealer member, January 15, 1970; two public
7 members and two new motor vehicle dealer members, January 15,
8 1971. The terms shall thereupon expire in the same relative order.

9 (c) Vacancies occurring shall be filled by appointment for the
10 unexpired term.

11 This section does not apply to a dealer who deals exclusively in
12 motorcycles or recreational vehicles, as defined in subdivision (a)
13 of Section 18010 of the Health and Safety Code.

14 SEC. 5. *Section 3050.8 is added to the Vehicle Code, to read:*

15 3050.8. (a) *If the board receives a complaint from a member*
16 *of the public seeking a refund involving the sale or lease of, or a*
17 *replacement of, a recreational vehicle, as defined in subdivision*
18 *(a) of Section 18010 of the Health and Safety Code, from a motor*
19 *vehicle dealership, as defined in paragraph (1) of subdivision (e)*
20 *of Section 3072, the board shall recommend that the complainant*
21 *consult with the Department of Consumer Affairs.*

22 (b) *Nothing in this chapter affects a person's rights regarding*
23 *a transaction involving a recreational vehicle as defined in*
24 *subdivision (a), to maintain an action under any other statute,*
25 *including, but not limited to, applicable provisions of Title 1.7*
26 *(commencing with Section 1790) of Part 4 of Division 3 of the Civil*
27 *Code.*

28 SEC. 6. *Section 3051 of the Vehicle Code is amended to read:*

29 3051. *This chapter does not apply to any person licensed as a*
30 *transporter under Article 1 (commencing with Section 11700) or*
31 *as a salesperson under Article 2 (commencing with Section 11800)*
32 *of Chapter 4 of Division 5, or to any licensee who is not a new*
33 *motor vehicle dealer, motor vehicle manufacturer, manufacturer*
34 *branch, new motor vehicle distributor, distributor branch, or*
35 *representative. This chapter does not apply to transactions*
36 *involving "mobilehomes," as defined in Section 18008 of the*
37 *Health and Safety Code, "recreational vehicles," as defined in*
38 *subdivision (b) of Section 18010 of the Health and Safety Code,*
39 *truck campers, "commercial coaches," as defined in Section*
40 *18001.8 of the Health and Safety Code, or off-highway motor*



1 vehicles subject to identification, as defined in Section 38012,
2 except off-highway motorcycles, as defined in Section 436, and
3 all-terrain vehicles, as defined in Section 111. Except as otherwise
4 provided in this chapter, this chapter applies to a new motor
5 ~~vehicle dealer as defined in Section 426, a dealer of new vehicle~~
6 *dealer, a dealer of new* recreational vehicles, as defined in
7 subdivision (a) of Section 18010 of the Health and Safety Code,
8 except a dealer who deals exclusively in truck campers, a vehicle
9 manufacturer as defined in Section 672, a manufacturer branch as
10 defined in Section 389, a distributor as defined in Section 296, a
11 distributor branch as defined in Section 297, a representative as
12 defined in Section 512, or an applicant therefor.

13 ~~SEC. 6.—Section 3062 of the Vehicle Code is amended to read:~~

14 ~~3062.—(a) (1) Except as otherwise provided in subdivision~~
15 ~~(b), if a franchisor seeks to enter into a franchise establishing an~~
16 ~~additional motor vehicle dealership within a relevant market area~~
17 ~~where the same line make is then represented, or seeks to relocate~~
18 ~~an existing motor vehicle dealership, the franchisor shall, in~~
19 ~~writing, first notify the board and each franchisee in that line make~~
20 ~~in the relevant market area of the franchisor's intention to establish~~
21 ~~an additional dealership or to relocate an existing dealership within~~
22 ~~or into that market area. Within 20 days of receiving the notice,~~
23 ~~satisfying the requirements of this section, or within 20 days after~~
24 ~~the end of any appeal procedure provided by the franchisor, any~~
25 ~~franchisee required to be given the notice may file with the board~~
26 ~~a protest to the establishing or relocating of the dealership. If,~~
27 ~~within this time, a franchisee files with the board a request for~~
28 ~~additional time to file a protest, the board or its secretary, upon a~~
29 ~~showing of good cause, may grant an additional 10 days to file the~~
30 ~~protest. When a protest is filed, the board shall inform the~~
31 ~~franchisor that a timely protest has been filed, that a hearing is~~
32 ~~required pursuant to Section 3066, and that the franchisor may not~~
33 ~~establish or relocate the proposed dealership until the board has~~
34 ~~held a hearing as provided in Section 3066, nor thereafter, if the~~
35 ~~board has determined that there is good cause for not permitting~~
36 ~~the dealership. In the event of multiple protests, hearings may be~~
37 ~~consolidated to expedite the disposition of the issue.~~

38 ~~(2) If a franchisor seeks to enter into a franchise that authorizes~~
39 ~~a satellite warranty facility to be established at, or relocated to, a~~
40 ~~proposed location which is within two miles of any dealership of~~

1 ~~the same line make, the franchisor shall first give notice in writing~~
2 ~~of the franchisor's intention to establish or relocate a satellite~~
3 ~~warranty facility at the proposed location to the board and each~~
4 ~~franchisee operating a dealership of the same line make within two~~
5 ~~miles of the proposed location. Within 20 days of receiving the~~
6 ~~notice satisfying the requirements of this section, or within 20 days~~
7 ~~after the end of any appeal procedure provided by the franchisor,~~
8 ~~any franchisee required to be given the notice may file with the~~
9 ~~board a protest to the establishing or relocating of the satellite~~
10 ~~warranty facility. If, within this time, a franchisee files with the~~
11 ~~board a request for additional time to file a protest, the board or its~~
12 ~~secretary, upon a showing of good cause, may grant an additional~~
13 ~~10 days to file the protest. When a protest is filed, the board shall~~
14 ~~inform the franchisor that a timely protest has been filed, that a~~
15 ~~hearing is required pursuant to Section 3066, and that the~~
16 ~~franchisor may not establish or relocate the proposed satellite~~
17 ~~warranty facility until the board has held a hearing as provided in~~
18 ~~Section 3066, nor thereafter, if the board has determined that there~~
19 ~~is good cause for not permitting the satellite warranty facility. In~~
20 ~~the event of multiple protests, hearings may be consolidated to~~
21 ~~expedite the disposition of the issue.~~

22 (3) ~~The written notice shall contain, on the first page thereof in~~
23 ~~at least 12 point bold type and circumscribed by a line to segregate~~
24 ~~it from the rest of the text, the following statement:~~

25
26 ~~“NOTICE TO DEALER: You have the right to file a protest~~
27 ~~with the NEW MOTOR VEHICLE BOARD in Sacramento and~~
28 ~~have a hearing on your protest under the terms of the California~~
29 ~~Vehicle Code if you oppose this action. You must file your protest~~
30 ~~with the board within 20 days of your receipt of this notice, or~~
31 ~~within 20 days after the end of any appeal procedure that is~~
32 ~~provided by us to you. If within this time you file with the board~~
33 ~~a request for additional time to file a protest, the board or its~~
34 ~~secretary, upon a showing of good cause, may grant you an~~
35 ~~additional 10 days to file the protest.”~~

36
37 (b) ~~Subdivision (a) does not apply to either of the following:~~
38 (1) ~~The relocation of an existing dealership to any location that~~
39 ~~is both within the same city as, and is within one mile from, the~~
40 ~~existing dealership location.~~

~~(2) The establishment at any location that is both within the same city as, and is within one-quarter mile from, the location of a dealership of the same line make that has been out of operation for less than 90 days.~~

~~(c) Subdivision (a) does not apply to either of the following:~~

~~(1) A display of vehicles at a fair, exposition, or similar exhibit if no actual sales are made at the event and the display does not exceed 30 days. This subdivision may not be construed to prohibit a new vehicle dealer from establishing a branch office for the purpose of selling vehicles at the fair, exposition, or similar exhibit, even though that the event is sponsored by a financial institution, as defined in Section 31041 of the Financial Code or by a financial institution and a licensed dealer. The establishment of these branch offices, however, shall be in accordance with subdivision (a), where applicable.~~

~~(2) An annual show sponsored by a national trade association of recreational vehicle manufacturers that complies with all of the requirements of subdivision (d) of Section 11713.15.~~

~~(d) For the purposes of this section, the reopening of a dealership that has not been in operation for one year or more shall be deemed the establishment of an additional motor vehicle dealership.~~

~~(e) As used in this section, the following definitions apply:~~

~~(1) "Motor vehicle dealership" or "dealership" means any authorized facility at which a franchisee offers for sale or lease, displays for sale or lease, or sells or leases new motor vehicles.~~

~~(2) "Satellite warranty facility" means any facility operated by a franchisee where authorized warranty repairs and service are performed and the offer for sale or lease, the display for sale or lease, or the sale or lease of new motor vehicles is not authorized to take place.~~

~~(3) "Line make," as it applies solely to the sale of any new recreational vehicle, means that group or groups of recreational vehicles, as defined by the terms of a written agreement that complies with Section 331.~~

SEC. 7. Section 3066 of the Vehicle Code is amended to read:

3066. (a) Upon receiving a notice of protest pursuant to Section 3060, 3062, 3064, 3065, ~~or~~ 3065.1, 3070, or 3072, the board shall fix a time, which shall be within 60 days of the order, and place of hearing, and shall send by registered mail a copy of

1 the order to the franchisor, the protesting franchisee, and all
2 individuals and groups ~~which~~ *that* have requested notification by
3 the board of protests and decisions of the board. Except in any case
4 involving a franchisee who deals exclusively in motorcycles, the
5 board or its secretary may, upon a showing of good cause,
6 accelerate or postpone the date initially established for a hearing,
7 but in no event shall the hearing be rescheduled more than 90 days
8 after the board's initial order. For the purpose of accelerating or
9 postponing a hearing date, "good cause" includes, but is not
10 limited to, the effects upon, and any irreparable harm to, the parties
11 or interested persons or groups if the request for a change in
12 hearing date is not granted. The board, or a hearing officer
13 designated by the board, shall hear and consider the oral and
14 documented evidence introduced by the parties and other
15 interested individuals and groups, and the board shall make its
16 decision solely on the record so made. Chapter 4.5 (commencing
17 with Section 11400) of Part 1 of Division 3 of Title 2 of the
18 Government Code and Sections 11507.3, 11507.6, 11507.7,
19 11511, 11513, 11514, 11515, and 11517 of the Government Code
20 apply to these proceedings.

21 (b) In any hearing on a protest filed pursuant to Section 3060
22 or 3062, the franchisor shall have the burden of proof to establish
23 that there is good cause to modify, replace, terminate, or refuse to
24 continue a franchise. The franchisee shall have the burden of proof
25 to establish that there is good cause not to enter into a franchise
26 establishing or relocating an additional motor vehicle dealership.

27 (c) In any hearing on a protest alleging a violation of, or filed
28 pursuant to, Section 3064, 3065, ~~or~~ 3065.1, 3070, or 3072, the
29 franchisee shall have the burden of proof, but the franchisor has the
30 burden of proof to establish that a franchisee acted with intent to
31 defraud the franchisor where that issue is material to a protest filed
32 pursuant to Section 3065 or 3065.1.

33 (d) A member of the board who is a new motor vehicle dealer
34 may not participate in, hear, comment, or advise other members
35 upon, or decide, any matter involving a protest filed pursuant to
36 this article unless all parties to the protest stipulate otherwise.

37 *SEC. 8. Section 3069.1 is added to the Vehicle Code, to read:*
38 *3069.1. Sections 3060 to 3063, inclusive, do not apply to a*
39 *franchise authorizing a dealership, as defined in paragraph (1) of*
40 *subdivision (e) of Section 3072.*

SEC. 9. Article 5 (commencing with Section 3070) is added to Chapter 6 of Division 2 of the Vehicle Code, to read:

Article 5. Hearings on Recreational Vehicle Franchise
Modification, Replacement, Termination, Refusal to Continue,
Establishment, and Relocation

3070. (a) Notwithstanding Section 20999.1 of the Business and Professions Code or the terms of any franchise, a franchisor of a dealer of new recreational vehicles, as defined in subdivision (a) of Section 18010 of the Health and Safety Code, except a dealer who deals exclusively in truck campers, may not terminate or refuse to continue a franchise unless all of the following conditions are met:

(1) The franchisee and the board have received written notice from the franchisor as follows:

(A) Sixty days before the effective date thereof setting forth the specific grounds for termination or refusal to continue.

(B) Fifteen days before the effective date thereof setting forth the specific grounds with respect to any of the following:

(i) Transfer of any ownership or interest in the franchise without the consent of the franchisor, which consent shall not be unreasonably withheld.

(ii) Misrepresentation by the franchisee in applying for the franchise.

(iii) Insolvency of the franchisee, or filing of any petition by or against the franchisee under any bankruptcy or receivership law.

(iv) Any unfair business practice after written warning thereof.

(v) Failure of the dealer to conduct its customary sales and service operations during its customary hours of business for seven consecutive business days, giving rise to a good faith belief on the part of the franchisor that the recreational vehicle dealer is in fact going out of business, except for circumstances beyond the direct control of the recreational vehicle dealer or by order of the department.

(C) The written notice shall contain, on the first page thereof in at least 12-point bold type and circumscribed by a line to segregate it from the rest of the text, one of the following statements, whichever is applicable:

To be inserted when a 60-day notice of termination is given.

1 “NOTICE TO DEALER: You have the right to file a protest with
2 the NEW MOTOR VEHICLE BOARD in Sacramento and have a
3 hearing in which you may protest the termination of your franchise
4 under provisions of the California Vehicle Code. You must file your
5 protest with the board within 30 calendar days after receiving this
6 notice or within 30 days after the end of any appeal procedure
7 provided by the franchisor or your protest right will be waived.”

8 To be inserted when a 15-day notice of termination is given.

9 “NOTICE TO DEALER: You have the right to file a protest with
10 the NEW MOTOR VEHICLE BOARD in Sacramento and have a
11 hearing in which you may protest the termination of your franchise
12 under provisions of the California Vehicle Code. You must file your
13 protest with the board within 10 calendar days after receiving this
14 notice or within 10 days after the end of any appeal procedure
15 provided by the franchisor or your protest right will be waived.”

16 (2) Except as provided in Section 3050.7, the board finds that
17 there is good cause for termination or refusal to continue,
18 following a hearing called pursuant to Section 3066. The
19 franchisee may file a protest with the board within 30 days after
20 receiving a 60-day notice, satisfying the requirements of this
21 section, or within 30 days after the end of any appeal procedure
22 provided by the franchisor, or within 10 days after receiving a
23 15-day notice, satisfying the requirements of this section, or within
24 10 days after the end of any appeal procedure provided by the
25 franchisor. When a protest is filed, the board shall advise the
26 franchisor that a timely protest has been filed, that a hearing is
27 required pursuant to Section 3066, and that the franchisor may not
28 terminate or refuse to continue until the board makes its findings.

29 (3) The franchisor has received the written consent of the
30 franchisee, or the appropriate period for filing a protest has
31 elapsed.

32 (b) (1) Notwithstanding Section 20999.1 of the Business and
33 Professions Code or the terms of any franchise, a franchisor of a
34 dealer of recreational vehicles may not modify or replace a
35 franchise with a succeeding franchise if the modification or
36 replacement would substantially affect the franchisee’s sales or
37 service obligations or investment, unless the franchisor has first
38 given the board and each affected franchisee written notice thereof
39 at least 60 days in advance of the modification or replacement.
40 Within 30 days of receipt of a notice satisfying the requirements of

1 *this section, or within 30 days after the end of any appeal*
2 *procedure provided by the franchisor, a franchisee may file a*
3 *protest with the board and the modification or replacement does*
4 *not become effective until there is a finding by the board that there*
5 *is good cause for the modification or replacement. If, however, a*
6 *replacement franchise is the successor franchise to an expiring or*
7 *expired term franchise, the prior franchise shall continue in effect*
8 *until resolution of the protest by the board. In the event of multiple*
9 *protests, hearings shall be consolidated to expedite the disposition*
10 *of the issue.*

11 *(2) The written notice shall contain, on the first page thereof in*
12 *at least 12-point bold type and circumscribed by a line to segregate*
13 *it from the rest of the text, the following statement:*

14 *“NOTICE TO DEALER: Your franchise agreement is being*
15 *modified or replaced. If the modification or replacement will*
16 *substantially affect your sales or service obligations or investment,*
17 *you have the right to file a protest with the NEW MOTOR*
18 *VEHICLE BOARD in Sacramento and have a hearing in which*
19 *you may protest the proposed modification or replacement of your*
20 *franchise under provisions of the California Vehicle Code. You*
21 *must file your protest with the board within 30 calendar days of*
22 *your receipt of this notice or within 30 days after the end of any*
23 *appeal procedure provided by the franchiser or your protest rights*
24 *will be waived.”*

25 *3071. In determining whether good cause has been*
26 *established for modifying, replacing, terminating, or refusing to*
27 *continue a franchise of a dealer of new recreational vehicles, the*
28 *board shall take into consideration the existing circumstances,*
29 *including, but not limited to, all of the following:*

30 *(a) The amount of business transacted by the franchisee, as*
31 *compared to the business available to the franchisee.*

32 *(b) The investment necessarily made and obligations incurred*
33 *by the franchisee to perform its part of the franchise.*

34 *(c) The permanency of the investment.*

35 *(d) Whether it is injurious or beneficial to the public welfare for*
36 *the franchise to be modified or replaced or the business of the*
37 *franchisee disrupted.*

38 *(e) Whether the franchisee has adequate new recreational*
39 *vehicle sales and, if required by the franchise, service facilities,*
40 *equipment, vehicle parts, and qualified service personnel, to*

1 reasonably provide for the needs of the consumers of the
2 recreational vehicles handled by the franchisee and has been and
3 is rendering adequate services to the public.

4 (f) Whether the franchisee fails to fulfill the warranty
5 obligations agreed to be performed by the franchisee in the
6 franchise.

7 (g) The extent of franchisee's failure to comply with the terms
8 of the franchise.

9 3072. (a) (1) Except as otherwise provided in subdivision
10 (b), if a franchisor seeks to enter into a franchise establishing an
11 additional motor vehicle dealership within a relevant market area
12 where the same recreational vehicle line-make is then represented,
13 or seeks to relocate an existing motor vehicle dealership, the
14 franchisor shall, in writing, first notify the board and each
15 franchisee in that recreational vehicle line-make in the relevant
16 market area of the franchisor's intention to establish an additional
17 dealership or to relocate an existing dealership within or into that
18 market area. Within 20 days of receiving the notice, satisfying the
19 requirements of this section, or within 20 days after the end of any
20 appeal procedure provided by the franchisor, any franchisee
21 required to be given the notice may file with the board a protest to
22 establishing or relocating the dealership. If, within this time, a
23 franchisee files with the board a request for additional time to file
24 a protest, the board or its secretary, upon a showing of good cause,
25 may grant an additional 10 days to file the protest. When a protest
26 is filed, the board shall inform the franchisor that a timely protest
27 has been filed, that a hearing is required pursuant to Section 3066,
28 and that the franchisor shall not establish or relocate the proposed
29 dealership until the board has held a hearing as provided in
30 Section 3066, nor thereafter, if the board has determined that there
31 is good cause for not permitting the dealership. In the event of
32 multiple protests, hearings may be consolidated to expedite the
33 disposition of the issue.

34 (2) The written notice shall contain, on the first page thereof in
35 at least 12-point bold type and circumscribed by a line to segregate
36 it from the rest of the text, the following statement:

37 "NOTICE TO DEALER: You have the right to file a protest with
38 the NEW MOTOR VEHICLE BOARD in Sacramento and have a
39 hearing on your protest under the terms of the California Vehicle
40 Code if you oppose this action. You must file your protest with the

1 board within 20 days of your receipt of this notice, or within 20
2 days after the end of any appeal procedure that is provided by us
3 to you. If, within this time, you file with the board a request for
4 additional time to file a protest, the board or its secretary, upon a
5 showing of good cause, may grant you an additional 10 days to file
6 the protest.”

7 (b) Subdivision (a) does not apply to any of the following:

8 (1) The relocation of an existing dealership to any location that
9 is both within the same city as, and within one mile of, the existing
10 dealership location.

11 (2) The establishment at any location that is both within the
12 same city as, and within one-quarter mile of, the location of a
13 dealership of the same recreational vehicle line-make that has
14 been out of operation for less than 90 days.

15 (3) A display of vehicles at a fair, exposition, or similar exhibit
16 if no actual sales are made at the event and the display does not
17 exceed 30 days. This paragraph shall not be construed to prohibit
18 a new vehicle dealer from establishing a branch office for the
19 purpose of selling vehicles at the fair, exposition, or similar
20 exhibit, even though that event is sponsored by a financial
21 institution, as defined in Section 31041 of the Financial Code, or
22 by a financial institution and a licensed dealer. The establishment
23 of these branch offices, however, shall be in accordance with
24 subdivision (a) where applicable.

25 (4) An annual show sponsored by a national trade association
26 of recreational vehicle manufacturers that complies with all of the
27 requirements of subdivision (d) of Section 11713.15.

28 (d) For the purposes of this section, the reopening of a
29 dealership that has not been in operation for one year or more shall
30 be deemed the establishment of an additional motor vehicle
31 dealership.

32 (e) As used in this section and in Section 3073, the following
33 definitions apply:

34 (1) “Motor vehicle dealership” or “dealership” means any
35 authorized facility at which a franchisee offers for sale or lease,
36 displays for sale or lease, or sells or leases new recreational
37 vehicles, as defined in subdivision (a) of Section 18010 of the
38 Health Safety Code. A “motor vehicle dealership” or
39 “dealership” does not include a dealer who deals exclusively in
40 truck campers.

1 (2) “Recreational vehicle line-make” means that group or
2 groups of recreational vehicles as defined by the terms of a written
3 agreement that complies with Section 331.

4 3073. In determining whether good cause has been
5 established for not entering into or relocating an additional
6 franchise for the same recreational vehicle line-make, the board
7 shall take into consideration the existing circumstances,
8 including, but not limited to, all of the following:

9 (a) The permanency of the investment.

10 (b) The effect on the retail recreational vehicle business and the
11 consuming public in the relevant market area.

12 (c) Whether it is injurious to the public welfare for an
13 additional franchise to be established.

14 (d) Whether the franchisees of the same recreational vehicle
15 line-make in that relevant market area are providing adequate
16 competition and convenient consumer care for the motor vehicles
17 of the recreational vehicle line-make in the market area. In making
18 this determination, the board shall consider the adequacy of
19 recreational vehicle sales and, if required by the franchise, service
20 facilities, equipment, supply of vehicle parts, and qualified service
21 personnel.

22 (e) Whether the establishment of an additional franchise would
23 increase competition and therefore be in the public interest.

24 3074. This article applies only to a franchise entered into on
25 or after January 1, 2004.